

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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CRISTEN ROSE PETERSON,

Plaintiff,

Case No. 24-cv-593-pp

v.

MARTIN J. O'MALLEY,

Defendant.

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**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED  
WITHOUT PREPAYING FILING FEE (DKT. NO. 2)**

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The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Federal law requires a person who files a complaint in federal court to pay \$405—a filing fee of \$350 (28 U.S.C. §1914(a)) and a \$55 administrative fee (Judicial Conference of the United States District Court Miscellaneous Fee Schedule Effective the December 1, 2023, #14). To allow the plaintiff to proceed without prepaying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The affidavit indicates that the

plaintiff is not employed; she is married and she has five dependents she and her spouse are responsible for supporting. Dkt. No. 2 at 1. The plaintiff lists total income of \$4,022 per month (\$2,000 from her spouse's employment and \$2,022 from Social Security). Id. at 2. The plaintiff's monthly expenses are \$2,451 (\$1,151 mortgage, \$1,300 other household expenses). Id. at 2-3. The plaintiff owns her home, with an approximate value of \$152,000 (she does not indicate the amount of equity in the home) and she owns two vehicles: a 2014 Chevy Traverse worth approximately \$9,000 and a 2013 Chevy Captiva worth approximately \$5,000. Id. at 3. The plaintiff owns no other property of value and she has \$5 in cash on hand or in a savings or checking account. Id. at 3-4. The plaintiff states, "[w]e do get some Food Share rec[iev]e Medicaid." Id. at 4. While the plaintiff's income and expense numbers indicate that there is approximately \$1,500 dollars left each month after she and her spouse pay the mortgage and household expenses, the court can surmise that the costs of running a household of seven take the majority of that surplus. The plaintiff has demonstrated that she cannot pay the \$405 fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct

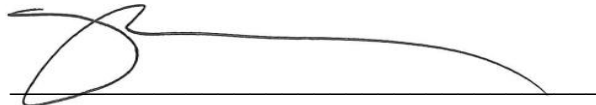
legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff used this court's standard complaint form, which states that the Commissioner's unfavorable conclusions and findings of fact when deciding to deny benefits to the plaintiff are not supported by substantial evidence and/or are contrary to law and regulation. Dkt. No. 1 at 3. In addition, the plaintiff states, "My doctors records weren't updated. They didn't get records from some Drs. I didn't understand the judge. My dr. wrote a note to social security. I am disabled." Id. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Dated in Milwaukee, Wisconsin this 15th day of May, 2024.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

**HON. PAMELA PEPPER**  
**Chief United States District Judge**